

REMARKS

Applicants respectfully request reconsideration of this RCE application in view of the foregoing amendment and following remarks.

Status of the Claims

Claims 1-212 have been canceled without prejudice or disclaimer. New claims 213-228 have been added to better clarify and focus the scope of protection sought. No new matter has been introduced by this amendment.

Rejection under 35 U.S.C. §§ 102 and 103

In the Final Office Action dated February 26, 2008, claims 1-4, 6-31, 68-74, 76-102 and 104-129 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,192,340 to Abecassis ("Abecassis") and claims 5, 75 and 103 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Abecassis. All of the rejected claims have been canceled. Therefore, the rejections directed to these claims are moot.

New Claims

As noted above, new claims 213-228 have been added. The new claims clarify and better focus on the subject matter for which protection is sought.

Although these new claims are believed to clearly distinguish over the prior art (including Abecassis, U.S. Pat. No. 6,192,340), in the interest of expediting prosecution, for the convenience of the Examiner, the distinctions between Abecassis and the instant claims are specifically discussed.

In general, Abecassis discloses integration of radio-on-demand with real-time information, such as stock market reports, based upon user preference. The radio-on-demand provider in Abecassis receives user preference information (e.g., stock market reports) from the

user, and then communicates with "an information provider" to obtain the information specified by the user preference. Upon receiving the specified user-preferred information from the information provider, the radio-on-demand provider of Abecassis interleaves that information with its radio-on-demand information.

While, in some respects, the end result of Abecassis and the instant claims is similar in that both can result in a listener receiving information from, for example, a music provider concurrently with other information, the approach claimed for doing so is substantially and patentably different on several accounts.

First, all of the new claims specifically recite: "receiving, from at least one of multiple broadcasters, broadcast schedule information identifying broadcast information to be transmitted over specific channels at predetermined times[.]" In Abecassis, there is nothing of the sort. The radio-on-demand provider does not provide any schedule information to anyone. Moreover, the concept of radio on demand is somewhat inconsistent with such an approach because it generally allows the listener to specify what they want to hear, when they want to hear it, and in what order. Still further, to the extent that a system such as in Abecassis would provide a program schedule, that schedule would be provided to the prospective listener. The importance of that further distinction will be evident in the context of the additional elements of the claims that provide further distinctions.

Second, all of the new claims go on to recite "analyzing the received broadcast schedule information and, based upon the analysis, identifying supplemental digital data to be provided to a broadcaster from among the at least one of the multiple broadcasters, the supplemental digital data being correlated to broadcast data such that both can concurrently be provided by the broadcaster[.]" This claim element is distinguishable from Abecassis on four separate grounds.

One, the claims are distinguishable based upon the recitation of “analyzing the received broadcast schedule information” since, as noted above, one cannot analyze what one does not receive or, if such information would be asserted by the Patent Office as being disclosed in Abecassis, it would be provided to a listener. As a result, the listener would not perform any analysis thereof in accordance with the remainder of the claim element.

Two, whether or not schedule information was received by the listener, they would not identify “supplemental digital data to be provided to a broadcaster from among the at least one of the multiple broadcasters[.]” This is because the “supplemental digital data” recited in the claim is what the listener would receive, not send. This is further highlighted by the rest of the clause that specifies “the supplemental digital data being correlated to broadcast data such that both can concurrently be provided by the broadcaster[.]” The “supplemental digital data” is clearly data supplied to, not by, the listener. In other words, for the instant claims to correspond to Abecassis, the listener would have to be providing the actual stock quote information (i.e. the alleged “supplemental digital data”) to the broadcaster, which is both inconsistent with Abecassis and illogical. Stated another way, this claim element (indeed the entire claim) is from the perspective of an entity who is interacting with one or more broadcasters, so that the broadcasters can provide certain information to their listeners.

Three, the “supplemental digital data [is] correlated to the broadcast data” specifying a relationship between the two. By way of example, an analysis of the broadcast schedule might specify that between 9 a.m. and 10 a.m. and again between 2 p.m. and 3 p.m. a talk show about cooking is scheduled, with the afternoon broadcast being followed by a show about real estate investing. An analysis of the schedule might result in supplemental digital data being correlated to the morning broadcast that includes supermarket items that will be on sale and recipes,

whereas the supplemental digital data correlated to the afternoon broadcast might be a combination of restaurant reviews and a wrap-up analysis of the morning's stock trading results.

Four, taking the first two elements of the claims together in context, highlights the fact that neither the broadcaster nor the listener are determining what the recited "supplemental digital data" is, since that is what results from the analysis.

The third element of all of the claims goes on to additionally recite "providing the supplemental digital data to the broadcaster prior to the predetermined time for broadcast of the broadcast data as specified in the broadcast schedule information so that the broadcaster can concurrently broadcast both the broadcast data and the correlated supplemental digital data at the predetermined time[.]" This aspect also distinguishes the claims over Abecassis on several grounds. First, as noted above, it reinforces the distinction that that the supplemental digital data is provided to the broadcaster so that they can broadcast it. Second, it reinforces the fact that the supplemental digital information is provided to the broadcaster in advance of the broadcast, and thus, would not generally be a stream of real-time information like the then-current stock-market ticker information. Third, it makes clear that the "supplemental digital data" is "correlated" to the broadcast data, not independent of it. Note however, that this relates to the timing of its provision as opposed to content. In other words, the supplemental digital data is "correlated" because it is to be provided by the broadcaster in accordance with the broadcaster's schedule, irrespective of what the substantive content of the "supplemental digital data" is.

Finally, the last element of claim 213 specifies that the broadcaster concurrently provides "both the broadcast data and the correlated supplemental digital data at the predetermined time as part of an in-band, on-channel transmission[.]" and, in claim 221, the broadcaster concurrently provides "both the broadcast data and the correlated supplemental digital data at the

predetermined time as part of a digital information waveform encapsulated in a series of RF sub-carriers.” Neither of these aspects are believed to be disclosed by Abecassis.

Thus, each and every element of the recited claims distinguishes over the prior art. Accordingly, both of new claims 213 and 221, as well as the claims depending therefrom are believed to be patentable over the prior art. Thus, it is respectfully believed that the new claims are in condition for allowance and early favorable action in that regard is respectfully requested.

AUTHORIZATION

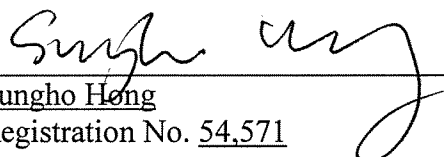
No petitions or additional fees are believed due for this amendment and/or any accompanying submissions. However, to the extent that any additional fees and/or petition is required, including a petition for extension of time, Applicant hereby petitions the Commissioner to grant such petition, and hereby authorizes the Commissioner to charge any additional fees, including any fees which may be required for such petition, or credit any overpayment to Deposit Account No. 13-4500 (Order No. 4232-4002). A DUPLICATE COPY OF THIS SHEET IS ENCLOSED.

An early and favorable examination on the merits is respectfully requested.

Respectfully submitted,
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Dated: May 19, 2008

By: _____


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